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APPENDIX III.

[Vide item VI (1) on page 125]

L. A. Bill No. 36 of 1971.

(As passed by the Assembly.)

A Bill to suspend the operation of the Tamil Nadu Prohibition Act, 1937.

BE it enacted by the Legislature of the State of Tamil Nadu in the Twenty-second year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Tamil Nadu Prohibition (Suspension of Operation) Act, 1971.

(2) It shall be deemed to have come into force on the 30th August 1971.

2. *Suspension of operation of Tamil Nadu Act X of 1937.*—(1) Notwithstanding anything contained in the Tamil Nadu Prohibition Act, 1937 (Tamil Nadu Act X of 1937) (hereinafter referred to as the Prohibition Act), the operation of the whole of the Prohibition Act (including sections 1, 3 and 6) is hereby suspended in so far as the Prohibition Act relates to matters mentioned in Entries 8, 51, 64, 65 and 66 of the State List the State Legislature has exclusive power to make laws under the provisions of the Prohibition Act of which the operation had Article 246 (3) of the Constitution.

(2) The provisions of section 8 of the Tamil Nadu General Clauses Act, 1891 (Tamil Nadu Act I of 1891) shall apply as if the provisions of the Prohibition Act of which the operation had been suspended have been repealed by a Tamil Nadu Act.

3. *Repeal of Tamil Nadu Ordinance 7 of 1971.*—The Tamil Nadu Prohibition (Suspension of Operation) Ordinance, 1971 (Tamil Nadu Ordinance 7 of 1971) is hereby repealed.

APPENDIX IV.

[Vide item VI (2) on page 149]

L. A. Bill No. 37 of 1971.

(As passed by the Assembly.)

CHAPTER 1.

PRELIMINARY.

1. *Short title, extent and commencement.*—(1) This Act may be called the Tamil Nadu Excise Act, 1971.

(2) It extends to the whole of the State of Tamil Nadu.

(3) It shall be deemed to have come into force on the 30th August 1971.

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2. *Definitions.*—In this Act, unless the context otherwise requires,—

(1) “arrack” includes all liquor produced or manufactured in India other than foreign liquor and Indian-made foreign spirits;

A Bill consolidate and amend the excise law in the State of Tamil Nadu.

WHEREAS it is expedient to consolidate and amend the law relating to the production, manufacture, possession, import, export, transport, purchase and sale of intoxicating liquor in the State of Tamil Nadu;

BE it enacted by the Legislature of the State of Tamil Nadu in the Twenty-second Year of the Republic of India as follows:—

(2) “beer” includes ale, stout, porter and all other fermented liquors usually made from malt;

(3) “bottle” means to transfer liquor from a cask or other vessel to a bottle, jar, flask or similar receptacle for the purpose of sale whether any process of manufacture be employed or not and includes rebottling;

(4) “collector” means the collector of a district, or any person appointed under clause (b) of section 3, to exercise all or any of the powers or to perform all or any of the duties of a collector under this Act;

(5) “commissioner” means the officer appointed by the Government under clause (a) of section 3;

(6) “excisable article” means any alcoholic liquor for human consumption but does not include medicinal and toilet preparations mentioned in entry 84 of List I in the Seventh Schedule to the Constitution;

(7) “excise duty” or “countervailing duty” means any such excise duty or countervailing duty as the case may be, as is mentioned in entry 51 of List II in the Seventh Schedule to the Constitution;

(8) “excise-inspector” means an officer appointed under clause (d) of section 3;

(9) “excise-officer” means the commissioner, a collector, or any officer or other person lawfully appointed or invested with powers under section 3 and includes the Board of Revenue when exercising any of its functions or powers in respect of excise-revenue;

(10) “excise-revenue” means revenue derived or derivable from any duty, fee, tax, fine or confiscation imposed or ordered under the provisions of this Act, or of any other law for the time being in force relating to liquor;

(11) “export” means to take out of the State otherwise than from a customs station as defined in section 2 of the Customs Act, 1962 (Central Act 52 of 1962);

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(12) "foreign liquor" includes every liquor imported into India other than Indian-made foreign spirits, plain rectified spirits and denatured and methylated spirits;

(13) "Government" means the State Government;

(14) "import" except in the phrase "import into India" means to bring into the State otherwise than from a customs station as defined in section 2 of the Customs Act, 1962 (Central Act 52 of 1962);

(15) "Indian-made foreign spirits" means spirits manufactured and compounded in India and made in colour and flavour to resemble gin, brandy, whisky or rum imported into India and includes "milk punch" and other liquors consisting of or containing spirits;

(16) "liquor" includes arrack, spirits of wine, methylated spirits, spirits, wine, toddy, beer and all liquid consisting of or containing alcohol;

(17) "manufacture" includes every process, whether natural or artificial, by which any fermented, spirituous, or intoxicating liquor is produced, prepared or blended and also re-distillation and every process for the rectification of liquor;

(18) "molasses" means the heavy dark coloured residual syrup drained away in the final stage of the manufacture of gur or sugar containing, in solution or suspension, sugars which can be fermented and includes any product formed by the addition to such syrup of any ingredient which does not substantially alter the character of such syrup, but does not include any article which the Government may, by notification, declare not to be molasses, for the purposes of this Act;

(19) "place" includes a house, building, booth, shed, enclosure, shop, tent, vessel, raft and vehicle;

(20) "police station" includes any place which the Government may, by notification, declare to be a police station for the purposes of this Act;

(21) "rectification" includes every process whereby spirits are purified or coloured or flavoured by mixing any material therewith;

(22) "sale" or "selling" includes any transfer otherwise than by way of gift;

(23) "spirit" means any liquor containing alcohol and obtained by distillation whether it is denatured or not.

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Explanation.—"Denatured" means subjected to a process prescribed by the Government for the purpose of rendering unfit for human consumption;

(24) "toddy" means fermented or unfermented juice drawn from a coconut, palmyra, date, or any other kind of palm tree;

(25) "transport" means to move from one place to another within the State whether or not the intervening area lies wholly within the State.

CHAPTER II.

ESTABLISHMENT AND CONTROL.

3. *Appointment of officers.*—Notwithstanding anything contained in the Tamil Nadu Board of Revenue Regulation, 1803 (Tamil Nadu Regulation I of 1803) and the Tamil Nadu Collectors Regulation, 1803 (Tamil Nadu Regulation II of 1803), the Government may,—

(a) appoint an officer, who shall exercise all the powers of a collector in respect of the excise-revenue and who shall, either as a member of the Board of Revenue or subject to the orders of the Board of Revenue or independently of the Board of Revenue, as the Government may direct, have the control of the administration of the Excise and Prohibition department or of the collection of the excise-revenue or of both; and may direct that the control exercised by the Board of Revenue over collectors in respect of the excise-revenue shall be exercised by such officer;

(b) appoint any person other than the collector to exercise all or any of the powers and to perform all or any of the duties of a collector in respect of the excise-revenue, either concurrently with or in exclusion of the collector, subject to such control as the Government may from time to time direct;

(c) withdraw from the Board of Revenue, or the collector any or all of their or his powers in respect of the excise-revenue;

(d) appoint officers to perform the acts and duties mentioned in sections 45 to 58 (both inclusive);

(e) appoint subordinate officers of such classes and with such designations, powers and duties under this Act as the Government may think fit;

(f) order that all or any of the powers and duties assigned to any officers under clauses (d) and (e) shall be exercised and performed by any other officer of the Government or any person;

(g) delegate to any excise-officer all or any of their powers under this Act subject to such restriction and control as may be prescribed, and also subject to such limitations and conditions if any, as may be specified in the order of delegation.

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4. *Rules for the guidance of excise-officers.*—The Government may from time to time make rules—

(1) prescribing the power and duties under this Act to be exercised and performed by excise-officers of 'the several classes;' and

(2) regulating the delegation by the Board of Revenue, by the commissioner, or by the collectors of any powers conferred by this Act or exercised in respect of excise-revenue under any law for the time being in force.

5. *Power of Government to empower officers to release persons arrested on bail.*—The Government may, by notification, and subject to such conditions as may be specified in such notification, empower all or any of the officers or classes of officers or persons mentioned in section 39, either by name or by virtue of their office, throughout the State or in any local area, to release a person arrested under that section on bail; and such person so released on bail shall be bound to appear, when summoned or otherwise directed, before an excise-officer having jurisdiction to inquire into the offence for which such person has been arrested; and the Government may cancel or vary such notification.

CHAPTER III.

IMPORT, EXPORT AND TRANSPORT

6. *Import of liquor.*—(1) No liquor shall be imported except under a permit issued by such officer, not below the rank of a Gazetted Officer of the Excise and Prohibition department and on such terms as may be prescribed, and on payment of such excise duty or countervailing duty and fees, as may be levied under this Act:

Provided that the said officer may subject to such restrictions and conditions as may be prescribed to ensure the collection of the excise duty or countervailing duty, permit the import of the liquor without the payment of the excise duty or countervailing duty:

Provided further that no countervailing duty shall be payable on the liquor which, being liable to the payment of duty under the Indian Tariff Act, 1934 (Central Act 32 of 1934) or any other law for the time being in force relating to the duties or customs on goods imported into India, has been dealt with according to such law.

(2) The permit issued under sub-section (1), may be cancelled by the Gazetted Officer of the Excise and Prohibition department for breach of any of the terms subject to which it was issued and subject to such procedure as may be prescribed.

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7. *Export of liquor.*—(1) No liquor shall be exported except under a permit issued by such officer not below the rank of a Gazetted Officer of the Excise and Prohibition department, and on such terms, as may be prescribed, and on payment of such fees as may be levied under this Act :

Provided that no liquor produced or manufactured in India shall be permitted to be exported unless the excise duty or countervailing duty to which such liquor is liable, has been paid.

(2) The permit issued under sub-section (1) may be cancelled by the Gazetted Officer of the Excise and Prohibition department for breach of any of the terms subject to which it was issued and subject to such procedure as may be prescribed.

8. *Sections 6 and 7 not to affect certain laws and powers of Central Government.*—Nothing contained in section 6 or section 7 shall be deemed to affect any law for the time being in force which empowers the Central Government to prohibit or restrict the importation into India of liquor or which empowers the Central Government to exempt any liquor from the whole or any part of the duties of customs to which it is liable under any law for the time being in force.

9. *Prohibition of transport of liquor.*—The Government may, from time to time, by notification, prohibit the transport of liquor or of any kind of liquor from any local area into any other local area.

10. *Transport of liquor.*—No liquor exceeding such quantity as the Government may from time to time by notification specify, either generally or for any local area, shall be transported except under a permit issued under the provisions of section 11 :

Provided that in the case of foreign liquor transported for *bona fide* private consumption or for sale at any place at which the sale of such liquor is duly licensed or permitted under the provisions of this Act, such permits shall be dispensed with unless the Government shall by notification otherwise direct with respect to any local area.

11. *Permits for transport.*—(1) Permits for the transport of liquor may be issued by the collector or by any person duly empowered in that behalf.

(2) The permits under sub-section (1) may be either general for definite periods and kinds of liquor or special for specified occasions and particular consignments only.

(3) Every permit under this section shall specify—

- (a) the name of the person authorised to transport liquor;
- (b) the period for which the permit shall be valid;
- (c) the quantity and description of liquor for which it is granted; and
- (d) any other particulars as may be prescribed.

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(4) General permits shall be granted only to persons licensed under this Act and shall cover any quantity of liquor transported at any one time within the quantity specified in the permit.

(5) Permits issued under this section shall extend to and include servants and other persons employed by the grantees and acting on their behalf.

CHAPTER IV.

MANUFACTURE, POSSESSION AND SALE.

12. *Manufacture of liquor prohibited except under the provisions of this Act.*—(1) No person shall—

(a) manufacture or collect any liquor;

(b) tap any toddy-producing tree or draw toddy from any such tree;

(c) construct or work a distillery or brewery;

(d) bottle liquor for sale; and

(e) use, keep or have in his possession, any materials, stills, utensils, implements or apparatus, whatsoever for the purpose of manufacturing any liquor other than toddy;

except under the authority and subject to the terms and conditions of a licence granted by the Collector in that behalf, or under the provisions of section 24 :

Provided that the Government may, by notification, direct that in any local area it shall not be necessary to take out a licence for the manufacture or collection of liquor for *bona fide* private consumption.

(2) Licences granted under this section shall extend to and include servants and other persons employed by the licensees and acting on their behalf.

13. *Possession of liquor in excess of the quantity prescribed by Government prohibited.*—No person, not being a licensed manufacturer or vendor of liquor shall have in his possession any quantity of liquor in excess of such quantity as the Government may from time to time by notification, specify either generally or specially with regard to persons, places or time in respect of any specified description or kind of liquor unless under a licence granted by the Collector in that behalf :

Provided that—

(1) no fee shall be charged for any such licence granted for the possession of such liquor for *bona fide* private consumption or use;

(2) nothing in this section shall extend to any foreign liquor (other than denatured spirit) in the possession of any warehouseman as such.

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14. *Power to prohibit possession of liquor.*—The Government may, by notification, prohibit the possession by any person or class of persons either generally or in any local area of any liquor either absolutely or subject to such conditions as may be prescribed.

15. *Establishment of public distilleries and of warehouses.*—(1) The commissioner may with the previous sanction of the Government—

(a) establish a public distillery in which liquor or any kind of liquor may be manufactured in accordance with a licence granted under section 12 on such terms and conditions as may be prescribed;

(b) discontinue any public distillery so established;

(c) license at or in connexion with any licensed distillery or elsewhere a private warehouse wherein liquor may be deposited and kept without payment of duty;

(d) establish a public warehouse wherein liquor may be deposited and kept without payment of duty; and

(e) discontinue any public warehouse so established.

(2) Public warehouses shall be for the general accommodation of persons desiring to warehouse liquor subject to duty pending removal for local consumption or for export.

16. *Sale of liquor without licence prohibited and power to exempt toddy.*—(1) No liquor shall be sold without a licence from the collector :

Provided that a person having the right to the toddy drawn from any tree may sell the same without a licence to a person licensed to manufacture or sell toddy under this Act or to any officer whom the commissioner may generally or specially authorise :

Provided further that a licence for sale in more than one district may be granted by the commissioner :

Provided also that on such conditions as may be determined by the commissioner a licence for sale granted under the excise law in force in another State may be deemed to be a licence granted under this Act :

Provided also that the Government may, by notification, declare that any or all of the provisions of this Act shall not apply in any local area to trees tapped, or to toddy drawn under such conditions as the commissioner may specify.

(2) Nothing in this section shall apply to the sale of any foreign liquor legally procured by any person for his private use and sold by him or by auction on his behalf or on behalf of his representatives in interest upon his quitting a station or after his death.

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Explanation.—The supply of liquor by clubs to their members on payment of a price or of any fee or subscription is not a sale within the meaning of this section, but a fee according to a scale of fees to be fixed by the Government, shall be levied upon such clubs by the commissioner.

17. *Exclusive privileges of manufacture, etc., may be granted.*—(1) It shall be lawful for the Government to grant to any person or persons on such conditions and for such period as they may deem fit the exclusive or other privilege—

(a) of manufacturing or supplying by wholesale, or

(b) of selling by retail, or

(c) of manufacturing or supplying by wholesale and selling by retail,
any liquor other than foreign liquor within any local area.

(2) No grantee of any privilege under this section shall exercise the same until he has received a licence in that behalf from the collector.

(3) In such cases, if the Government shall by notification so direct, the provisions of section 12 relating to toddy and toddy-producing trees shall not apply.

18. *Prohibition of employment of children and of person suffering from infectious disease.*—(1) No person, who is licensed to sell any liquor for human consumption shall during the hours in which the premises are kept open for such purpose, employ or permit to be employed, either with or without remuneration, any children under such age as may be prescribed, in any part of the premises where the liquor is consumed by the public.

(2) No such person as is referred to in sub-section (1) shall employ or permit to be employed either with or without remuneration, any person who is suffering from leprosy or any infectious disease.

CHAPTER V.

CONTROL AND REGULATION OF MOLASSES.

19. *Control and regulation of molasses.*—(1) Except as otherwise provided in sub-sections (2) and (3), no person shall import, export, transport, sell or have in his possession, any quantity of molasses.

(2) The Government may, by general or special order, authorise any officer to grant licences for the import, export, sale or possession of molasses.

(3) The Government may also authorise any officer to grant permits for the transport of molasses.

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(4) The officer authorised under sub-sections (2) and (3) shall, in deciding whether to grant or refuse a licence or permit, have regard to the following matters, namely :—

- (a) the purposes for which the molasses are to be imported, exported, sold, possessed or transported, as the case may be;
- (b) such other matters as may be prescribed.

CHAPTER VI.

DUTIES.

20. *Excise duty or countervailing duty on excisable articles.*—An excise duty or countervailing duty of such amount as the Government may prescribe shall, if they so direct, be levied on all excisable articles—

- (a) permitted to be imported under this Act;
- (b) permitted to be exported under this Act;
- (c) permitted to be transported under this Act;
- (d) manufactured under any licence granted under this Act;
- (e) manufactured at any distillery established under this Act;
- (f) issued from a distillery or warehouse licensed or established under this Act; or
- (g) sold in any part of this State.

21. *How duty may be imposed.*—The excise duty or the countervailing duty under section 20 may be levied in one or more of the following ways :—

(a) by duty of excise to be charged in the case of spirits or beer either on the quantity produced in or passed out of a distillery, brewery or warehouse licensed or established under section 12 or section 15, as the case may be, or in accordance with such scale of equivalents, calculated on the quantity of materials used or by the degree of attenuation of the wash or wort, as the case may be, as may be prescribed;

(b) by payment of a sum in consideration of the grant of any exclusive or other privilege—

- (1) of manufacturing or supplying by wholesale, or
- (2) of selling by retail, or

(3) of manufacturing or supplying by wholesale and selling by retail

any liquor other than foreign liquor in any local area and for any specified period of time;

(c) by fees on licences for manufacture or sale;

(d) in the case of toddy, or spirits manufactured from toddy, by a tax on each tree from which toddy is drawn, to be paid in such instalments and for such period as the Government may direct; or

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(e) by import, export or transport duties assessed in such manner as the Government may direct :

Provided that where there is a difference of duty as between two licence periods, such difference may be collected in respect of all stocks of liquor other than foreign liquor held by licensees at the close of the former period.

22. Tax for tapping unlicensed trees, from whom leviable.—

(1) When duty is levied by way of tax on toddy trees under section 21, the Government may, by notification, direct that the licence required under section 12 shall be granted only on the production by the person applying for it of the written consent of the owner, or person in possession, of such trees to the licence, being granted to such person so applying for it; and when such notification has been issued such tax shall, in default of payment by the licensee, be recoverable from the owner or other person in possession who has so consented.

(2) When, in like case, trees are tapped without licence, the tax due shall be recoverable primarily from the tapper or in default by him from the occupier, if any, of the land, or if the trees do not belong to the occupier of the land, or if the land is not occupied, from the person, if any, who owns or is in possession of the trees unless he proves that the trees were tapped without his consent.

*23. Duties may be farmed.—*All or any of the duties leviable under this Act in any local area may, with the sanction of the Government, be farmed, subject to such payment and on such other conditions as the Government shall specify. Farmers of duties under this section shall take out licences as such from the collector.

*24. Toddy farmer may grant licence.—*When the exclusive privilege of manufacturing toddy has been granted under section 17, the Government may declare that the written permission of the grantee to draw toddy shall have, within the area to which the privilege extends, the same force and affect as a licence from the collector for that purpose under section 12.

*25. Farmer may let or assign.—*In the absence of any contract on condition to the contrary, any grantee of any exclusive or other privilege may let or assign the whole or any portion of his privilege or farm. But no such lessee or assignee shall exercise any rights as such unless and until the grantee or farmer, as the case may be, shall have applied to the collector for a licence to be given to such lessee or assignee, and such lessee or assignee shall have received the same.

*26. Recovery by farmer of rents due to him.—*It shall be lawful for any such grantee, farmer, lessee or assignee as aforesaid to proceed against any person holding under him for the recovery of any money due to him as if it were an arrear of rent

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recoverable under the law for the time being in force with regard to landholder and tenant:

Provided that nothing contained in this section shall affect the right to any such grantee, farmer, lessee or assignee to recover by civil suit any such amount due to him from any such person as aforesaid.

CHAPTER VII.

LICENCES, ETC.

27. *Form and conditions of licences, etc.*—Every licence or permit granted under this Act shall be granted—

- (a) on payment of such fees, if any;
- (b) for such period;
- (c) subject to such restrictions and on such conditions and
- (d) shall be in such form and contain such particulars as the Government may direct either generally, or in any particular instance in this behalf.

28. *Levy of sales tax on foreign liquor.*—Every person who or institution which, sells foreign liquor, to any person or institution holding, or exempt from holding, a licence for possession and sale or use of such liquor for consumption shall collect from the purchaser and pay over to the Government, at such intervals and in such manner as may be prescribed, a sales tax at a rate not exceeding seventy-five paise in the rupee as may be notified by the Government from time to time, on the price of the foreign liquor so sold.

Explanation.—In this section, "foreign liquor" means wines, spirits and beer imported into India from foreign countries and dealt with under the Indian Tariff Act, 1934 (Central Act XXXII of 1934) or under any other law for the time being in force relating to the duties of customs on goods imported into India.

29. *Counterpart agreement to be executed by licensees.*—Every person taking out a licence under this Act may be required to execute a counterpart agreement in conformity with the tenor of his licence, and to give such security for the performance of his agreement as the collector may require.

30. *Power to withdraw licences, etc.*—The collector may after following such procedure as may be prescribed cancel or suspend, any licence or permit granted under this Act—

(a) if any fee or duty payable by the holder thereof be not duly paid; or

(b) in the event of any breach by the holder of such licence or permit, or by his servants, or by any one acting with his express or implied permission on his behalf, of any of the terms or conditions such licence or permit; or

(c) if the holder thereof is convicted of any offence against this Act or any other law for the time being in force relating to excise revenue, or of any cognizable and non-bailable offence or

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of any offence under the Dangerous Drugs Act, 1930 (Central Act 11 of 1930), or under the Trade and Merchandise Marks Act, 1958 (Central Act 43 of 1958) or under sections 478 to 489 of the Indian Penal Code (Central Act XLV of 1860), or is punished for any offence referred to in section 112 or section 114 of the Customs Act, 1962 (Central Act 52 of 1962); or

(d) where a licence or permit has been granted on the application of the holder of an exclusive or other privilege or of a farmer of duties under this Act, on the requisition in writing of such person; or

(e) if the conditions of the licence or permit provide for such cancellation or suspension.

31. *Surrender of licence.*—Any holder of licence granted under this Act to sell any liquor may surrender his licence on the expiration of one month's notice in writing given by him to the collector of his intention to surrender the same but the licence fee proportionate to the unexpired portion of the terms of the licence for which it would have been current but for such surrender shall not be refunded.

CHAPTER VIII.

GENERAL PROVISIONS.

32. *Certain licensees required to keep instruments for testing, etc.*—Every person who manufactures or sells any liquor under a licence granted under this Act shall go bound—

(a) to supply himself with such measures, weights and instruments as the Government may prescribe and to keep the same in good conditions; and

(b) on the requisition of any excise officer duly empowered in that behalf at any time to measure, or weigh any liquor or to test any liquor in his possession in such manner as the said excise officer may require.

33. *Recovery of duties, etc.*—All duties, taxes, fines, and fees payable to the Government direct under any of the foregoing provisions of this Act, or of any licence or permit issued under it, and all amounts due to the Government by any grantee of a privilege or by any farmer under this Act or by any person on account of any contract relating to the excise revenue may be recovered from the person primarily liable to pay the same, or from his surety (if any), as if they were arrears of land revenue; and in case of default made by a grantee of a privilege or by a farmer, the collector may take the grant or farm under management at the risk of the defaulter or may declare the grant or farm forfeited and resell it at the risk and loss of the defaulter. When a grant or farm is under management under this section, the collector may recover any moneys due to the defaulter by any lessee or assignee as if they were arrears of land revenue.

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34. *Power to make rules.*—(1) The Government may make rules for carrying out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) all matters expressly required or allowed by the Act to be prescribed;

(b) regulating the mode in which toddy may be supplied to licensed vendors of the same, or to persons who distill spirits from it, or who use it in the manufacture of bread;

(c) determining the number of licences of each description to be granted in any district or place;

(d) regulating the hours of sale of liquor;

(e) regulating the hours and places of consumption of liquor;

(f) regulating the quantity of retail sale to any one individual;

(g) prohibiting the establishment of liquor shops in the vicinity of schools, colleges and highways, sacred places and congested areas, and in particular those inhabited by labourers and poor people;

(h) requiring that liquor shall be sold only in building which satisfy specified requirements and prescribing the amenities to be provided in such buildings;

(i) examining the quality and specifying the maximum alcoholic content of any liquor;

(j) regulating the number, size and description of stills, utensils, implements and apparatus to be used in any distillery;

(k) prescribing the instruments to be used in the testing of liquor and the tables of corrections according to temperature to be used therewith;

(l) prescribing the measures to be used for the sale of liquor;

(m) fixing for any local area the minimum price below or the maximum price above which, any liquor shall not be sold;

(n) the warehousing of liquor and for the removal of the same from any warehouse in which they are deposited for deposit in any other warehouse or for local consumption or for export;

(o) the inspection and supervision of stills, distilleries, private warehouses and breweries;

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(p) the management of any public distillery or public warehouse established under section 15;

(q) the storage, import, export, possession or transport of liquor under such supervision and control as may be deemed necessary for the purposes of this Act;

(r) prohibiting the use of any article which, the Government shall deem to be noxious or otherwise objectionable in the manufacture of liquor;

(s) prohibiting any person from driving or attempting to drive in a public place any vehicle including a motor vehicle while under the influence of drink and in such circumstances as may be specified;

(t) prohibiting or regulating the printing or publication in any newspaper, book, leaflet, booklet, or any other single or periodical publication or otherwise displaying or distributing any advertisement for other matter soliciting the use of, or offering any liquor other than liquor exempted under section 79;

(u) (1) declaring the process by which spirit manufactured in or imported into the State shall be denatured;

(2) for causing such spirit to be denatured through the agency or under the supervision of the excise officers;

(3) for ascertaining whether such spirit has been denatured;

(v) regulating the bottling of liquor for purposes of sale;

(w) declaring in what cases or classes of cases and to what authorities appeals shall lie from orders, whether original or appellate, passed under this Act or under any rule made thereunder or by what authorities such orders may be revised, either *suo motu* or on an application and prescribing the time and manner of presenting appeals and revision, and the procedure for dealing therewith;

(x) the grant of batta to witnesses;

(y) regulating the power of excise-officers to summon witnesses from a distance under section 49; ,

(z) the disposal of articles confiscated and of the proceeds thereof.

(3) A rule or notification under this Act may be made or issued so as to have retrospective effect from a date not earlier than the 30th day of August 1971.

(4) (a) All rules made under this Act shall be published in the *Tamil Nadu Government Gazette* and, unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

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(b) All notifications issued under this Act shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are published.

(5) Every rule made or notification issued under this Act shall, as soon as possible after it is made or issued, be placed on the table of both Houses of the Legislature, and if, before the expiry of the session in which it is so placed or the next session, both Houses agree in making any modification in any such rule or notification or both Houses agree that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

CHAPTER IX.

POWERS AND DUTIES OF OFFICERS, ETC.

35. *Magistrate may issue a search warrant on application.*—

(1) If any collector or Magistrate upon information obtained and after such inquiry as he thinks necessary has reason to believe that an offence under section 61 or section 64 or section 66 has been, is being or likely to be, committed, he may issue a warrant,—

(a) for the search of any place in which he has reason to believe that any liquor, materials, stills, utensils, implements or apparatus in respect of which the alleged offence has been, is being or likely to be committed are kept or concealed; and

(b) for the arrest of any person whom he has reason to believe to have to be, or to be likely to be, engaged in the commission of any such offence.

(2) Before issuing a warrant under sub-section (1) the collector or Magistrate shall examine the informant on oath or affirmation and the examination shall be reduced into writing in a summary manner and be signed by the informant, and also by the informant, and also by the Collector or Magistrate.

36. *Power to certain excise and police officers to search houses, etc., without warrant.*—Whenever the commissioner, or a collector, or any excise or police officer not below the rank of sub-inspector or an officer in-charge of the police station, has reason to believe that an offence under section 61 or section 64 or section 66 has been committed and that the delay occasioned by obtaining a search warrant under section 35 will prevent the execution thereof,, he may, after recording his reasons and the grounds of his belief at any time by day or night enter and search any place and may seize anything found therein which he has reason to believe to be liable to confiscation under this Act, and may detain and search, and if he thinks proper, arrest any person found in such place whom he has reason to believe to be guilty of any offence under this Act:

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Provided that every person arrested under this section shall be released on bail by such officer as aforesaid if sufficient bail be tendered for his appearance either before a Magistrate or before an excise-inspector, as the case may be.

37. *Power to enter and inspect places of manufacture and sale.*—The commissioner, or a collector, or any excise officer not below the rank of sub-inspector, or any police officer duly empowered in that behalf, may enter and inspect, at any time by day or by night, any place in which any licensed manufacturer carries on the manufacture of any liquor, or draws toddy, or stores any liquor or toddy; and may enter and inspect, at any time during which the same may be open, any place in which any liquor is kept for sale by any licensed person; and may examine, the accounts and registers and examine, test, measure, or weigh any materials, stills, utensils, implements, apparatus, or liquor, found in such place.

38. *In case of resistance, entry may be made by force, etc.*—If any officer empowered to make an entry under section 36 or section 37 cannot otherwise make such entry, it shall be lawful for him to break open any outer or inner door or window and to remove any other obstacle to his entry into any such place.

39. *Offenders may be arrested, and contraband liquor and articles seized without warrant.*—(1) Any officer of the Excise and Prohibition Police, Revenue departments, and any other person duly empowered may arrest without warrant in any public thoroughfare or open place other than a dwelling house any person found committing an offence punishable under section 61 or section 64 or section 66; and in any such thoroughfare or place may seize and detain any liquor, or other article which he has reason to believe to be liable to confiscation under this Act or any other law; and may search any person, vessel, vehicle, animal, package, receptacle or covering, upon whom, or in or upon which, he may have reasonable cause to suspect any such liquor, or other such article be or to be concealed:

Provided that if the officer or person making the arrest under this section be not empowered under section 5 to release on bail, the person arrested shall be forthwith forwarded to an officer so empowered, if there be such an officer within a distance of eight kilometres from the place where such arrest took place.

(2) It shall be the duty of such officer empowered as aforesaid to release such person on bail if sufficient surety be tendered for his appearance before an excise officer having jurisdiction to inquire into the case.

40. *Arrest of person refusing to give name or giving false name.*—Any person, who may be accused or reasonably suspected of committing an offence under this Act and who on demand of any excise-officer or officer of the Police or Revenue department

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or of any other person duly empowered, refuses to give his name and residence or who gives a name or residence which such officer or person has reason to believe to be false, may be arrested by such officer or person in order that his name and residence may be ascertained.

41. *Searches how to be made.*—All searches under the provisions of this Act shall be made in accordance with the provisions of the Code of Criminal Procedure, 1898 (Central Act V of 1898) :

Provided that the persons called upon to attend and witness such searches shall include at least two persons neither of whom is an excise, police or village officer.

42. *Officers of certain departments bound to assist.*—All officers of the department of Police and Revenue shall be legally bound to assist any excise-officer in carrying out the provisions of this Act.

43. *Offences to be reported, etc.*—Every officer employed under the Government, other than an excise-officer shall be bound to give immediate information to an excise officer, and every excise officer shall be bound to give immediate information either to his immediate official superior or to an excise-inspector,

of all breaches of any of the provisions of this Act which may come to his knowledge; and all such officers shall be bound to take all reasonable measures in their power to prevent the commission of any such breaches which they may know or have reason to believe are about or likely to be committed.

44. *Landowners and others to give information.*—All land-owners, proprietors, tenants and cultivators who own or hold land on which there shall be any manufacture of liquor not licensed under this Act shall in the absence of reasonable excuse be bound to give notice of the same to a Magistrate or to an excise-officer or any other officer of the Police or Revenue department immediately the same shall have come to their knowledge.

45. *Persons arrested how to be dealt with.*—When any person is arrested under any of the provisions of this Act, the person arresting him shall, unless bail shall been accepted under the provisions of this Act comply with such procedure as may be prescribed.

46. *Persons arrested to be released on bail.*—It shall be the duty of any officer arresting any person under the powers given by section 36 to release such person on bail if sufficient surety be tendered for his appearance before an excise-inspector or before a Magistrate, as the case may be.

47. *Bond of accused and sureties.*—Before any person is released on bail, a bond in such sufficient but not excessive sum of money as the officer releasing him on bail thinks proper shall be executed by such person and by one or more sureties,

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conditioned that such person shall attend in accordance with the terms of the bond shall continue to attend until otherwise directed by the excise-inspector before whom he was ordered to attend, or by the Magistrate, as the case may be :

Provided that the officer releasing any such person on bail may at his discretion dispense with the requirement of a surety or sureties to the bond executed by such person.

The Government shall from time to time determine the form of the bond to be used in any local area.

48. *Procedure in case of default of person released on bail to appear before excise-inspector.*—When by reason of default of appearance of a person released on bail to appear before an excise-inspector such officer is of opinion that proceedings should be taken to compel payment of the penalty or penalties mentioned in the bond of the person released on bail or of the surety or sureties, he shall forward the bond to the Magistrate having jurisdiction to try the offence of which the person bailed was accused, and the Magistrate shall proceed to compel payment of the penalty or penalties in the manner provided by the Code of Criminal Procedure, 1898 (Central Act V of 1898) for the recovery of penalties in the like case of default of appearance by a person released on bail to appear before his own court.

49. *Excise-officers may summon witnesses.*—Any excise-officer holding an inquiry under this Act may summon any person to appear before himself to give evidence on such inquiry or to produce any document relevant thereto which may be in his possession or under his control :

Provided that no such excise-officer shall summon any person to appear at a greater distance from the usual place of residence of such person than the Government may from time to time direct.

50. *Terms of summons.*—*Every summons.*—Every summons issued under section 49 shall state whether the person summoned is required to give evidence or to produce a document or both and shall require him to appear before the said officer at a stated time and place.

51. *Examination of witnesses.*—Persons so summoned shall attend as required and shall answer all questions relating to such inquiry put to them by such officer. Such answers shall be reduced into writing and shall be signed by such officer.

52. *When attendance of witnesses to be dispensed with and procedure in such cases.*—It shall be lawful for an excise-officer, instead of summoning to appear before him any person who, from sickness or other infirmity, may be unable so to do, or whom by reason of rank or sex it may not be proper to summon, to proceed to the residence of such person and there to require him to

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answer such questions as he may consider necessary with respect to such inquiry; and such person shall be bound so to answer accordingly, and the provisions of section 51 shall apply to such answers.

53. *Excise-inspectors may summon persons suspected of offences against excise laws.*—(1) Any excise-inspector may, after recording his reasons in writing, summon any person to appear before him whom he has good reason to suspect of having committed an offence under this Act. On such person appearing before such officer, the procedure prescribed by sections 45 to 52 (both inclusive) shall become applicable.

(2) The excise-inspector may also, if he considers it necessary for the investigation of the case, exercise the powers conferred by sections 49 to 52 before summoning the person suspected.

54. *Law relating to criminal courts as to summoning of witnesses to apply.*—The law for the time being in force as to summonses and compelling the attendance of persons summoned in criminal courts shall, so far as the same may be applicable, apply to any summons issued under the provisions of this Act.

55. *Report of excise-inspector gives jurisdiction to a competent Magistrate.*—When an excise-inspector forwards in custody any person accused of an offence under this Act to the Magistrate having jurisdiction to try the case, or releases any such person on the bail to appear before such Magistrate, such officer shall also forward to such Magistrate a report setting forth the name of the accused person and the nature of the offence with which he is charged and the names of the persons who appear to be acquainted with the circumstances of the case, and shall send to such Magistrate any article which it may be necessary to produce before him. Upon receipt of such report the Magistrate shall inquire into such offence and try the person accused thereof in like manner as if complaint had been made before him as prescribed in the Code of Criminal Procedure, 1898 (Central Act V of 1898).

56. *Powers of excise-inspector to cause attendance of witnesses before Magistrate.*—When an excise-inspector forwards in custody any person accused of an offence under this Act to the Magistrate having jurisdiction to try the case, or releases him on bail to appear before such Magistrate, such officer shall exercise all the powers conferred by the Code of Criminal Procedure, 1898 (Central Act V of 1898) on an officer in-charge of a police station in respect to causing the appearance before such Magistrate of such persons acquainted with the facts and circumstances of the case as he considers it necessary that such Magistrate shall examine as witnesses for the prosecution of such case.

57. *Procedure after arrest.*—Any person arrested for an offence under this Act shall be informed, as soon as may be, of the grounds for such arrest and shall be produced before the nearest

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Magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the Court of Magistrate; and no such person shall be detained in custody beyond the said period without the authority of a Magistrate.

58. *Police to take charge of articles seized.*—All officers in-charge of police stations shall take charge of and keep in safe custody pending the orders of a Magistrate or of an excise-inspector, all articles seized under this Act which may be delivered to them; and shall allow any excise-officer who may accompany such articles to the police station, or who may be deputed for the purpose by his superior officer, to affix his seal to such articles and to take samples of and from them. All samples so taken shall also be sealed with the seal of the officer-in-charge of the police station.

59. *Closing of shop for the sake of public peace.*—(1) It shall be lawful for the collector of the district or, in the City of Madras, for the Commissioner of Police by notice in writing to the licensee to require that any shop in which liquor is sold shall be closed at such times or for such period as he may think necessary for the preservation of public peace.

(2) If a riot or unlawful assembly is apprehended or occurs in the vicinity of any such shop, it shall be lawful for any Magistrate, or for any police officer who is present, to require such shop to be kept closed for such period as may be necessary.

60. *Government may direct closure of liquor shops on certain days.*—(1) The Government may, by notification, direct that any shop in which liquor is sold shall be closed,—

(a) on one or more days in every week; or

(b) on such national holidays and festival holidays; or

(c) on any other day;

as the Government may specify in such notification.

(2) A notification issued under sub-section (1) may extend to the whole of, or such part of, the State as may be specified in such notification.

CHAPTER X.

PENALTIES.

61. *For illegal import, etc.*—Whoever, in contravention of any of the provisions of this Act, or of any rule or order made under this Act or of any licence or permit obtained under this Act,

(a) imports, exports, transports or possesses liquor; or

(b) manufactures liquor; or

(c) taps any toddy-producing trees; or

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- (d) draws toddy from any tree; or
- (e) constructs or works any distillery or brewery; or
- (f) uses, keeps, or has in his possession any materials, stills, utensils, implements or apparatus whatsoever for the purpose of manufacturing liquor other than toddy; or
- (g) bottles any liquor for purposes of sale; or
- (h) sells liquor.

shall, on conviction before a Magistrate, be punished for each such offence with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

62. *Penalty for rendering or attempting to render denatured spirit fit for human consumption.*—(1) whoever renders or attempts to render fit for human consumption any spirit, whether manufactured in India or not, which has been denatured, or has in his possession any spirit in respect of which he knows or has reason to believe that any such attempt has been made, shall on conviction before a Magistrate, be liable to imprisonment for a term which may extend to three months, or to fine which may extend to one thousand rupees or both.

(2) For the purpose of this section it shall be presumed unless and until the contrary is provided that any spirit which is proved on chemical analysis to contain any quantity of any of the prescribed denaturants or contains or has been derived from denatured spirit.

63. *For misconduct by licensee, etc.*—Whoever, being the holder of a licence or permit granted under this Act or being in the employ of such holder and acting on his behalf—

(a) fails to produce such licence or permit on the demand of any excise-officer or of any other officer duly empowered to make such demand; or

(b) wilfully does or omits to do anything in breach of any of the conditions of his licence or permit not otherwise provided for in this Act; or

(c) wilfully contravenes any rule made under section 34; or

(d) permits drunkenness, riot, or gaming in any place in which any liquor is sold or manufactured; or

(e) sells or gives any liquor to any person apparently under twenty-one years of age; or

(f) permits persons of notoriously bad character to meet or remain in any such place.

shall, on conviction before a Magistrate, be punished for each such offence with fine which may extend to two hundred rupees, or with imprisonment which may extend to three months or with both.

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64. *For adulteration, etc., by licensed vendor or manufacturer.*—Whoever, being the holder of licence for the sale or manufacture of liquor under this Act,—

(a) mixes or permits to be mixed with the liquor sold or manufactured by him any noxious drugs or any foreign ingredient likely to add to its actual or apparent intoxicating quality or strength, or any article prohibited by any rule made under clause (r) of sub-section (2) of section 34, when such admixture shall not amount to the offence of adulteration under section 272 of the Indian Penal Code (Central Act XLV of 1860); or

(b) sells or keeps or exposes for sale as foreign liquor, liquor which he knows or has reason to believe to be liquor other than foreign liquor; or

(c) marks the cork of any bottle or any bottle, case, package or other receptacle containing liquor other than foreign liquor or uses any bottle, case, package or other receptacle containing liquor other than foreign liquor with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other receptacle contains foreign liquor, when such act shall not amount to the offence of using a false trade mark with intent to deceive or injure any person under section 482 of the Indian Penal Code (Central Act XLV of 1860); or

(d) sells or keeps or exposes for sale any liquor other than foreign liquor in a bottle, case, package or other receptacle with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other receptacle contains foreign liquor, when such act shall not amount to the offence of selling goods marked with a counterfeit trade mark under section 486 of the Indian Penal Code (Central Act XLV of 1860),

shall, on conviction before a Magistrate, be punished for each such offence with fine which may extend to five hundred rupees or with imprisonment for a term which may extend to three months or with both.

65. *Penalty for consumption in chemist's shop.*—(1) A chemist, druggist, apothecary or keeper of a dispensary, who allows any liquor which has not been bona fide medicated for medical purpose to be consumed on his business premises by any person shall, on conviction before a Magistrate be punished with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees.

(2) Any person who consumes any such liquor on such premises shall, on conviction, be punished with fine which may extend to two hundred rupees.

66. *For possession of illicit liquor.*—Whoever without lawful authority has in his possession any quantity of liquor knowing the same to have been unlawfully imported, transposed or manufactured, or knowing the prescribed duty not to have been paid

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therefor, shall, on conviction before a Magistrate, be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

67. *Manufacture, sale or possession by one person on account of another.*—(1) Where any liquor has been manufactured or sold or is possessed by any person on account of any other person and such other person knows or has reason to believe that such manufacture or sale was or that such possession is, on his account, the liquor shall, for the purpose of this Act be deemed to have been manufactured or sold by or to be in the possession of such other person.

(2) Nothing in sub-section (1) shall absolve any person who manufactures, sells or has possession of any liquor on account of another person from liability to any punishment under this Act for unlawful manufacture, sale or possession of such liquor.

68. *For vexatious search or arrest.*—Any excise officer or other person who, without reasonable ground of suspicion—

(i) enters or searches, or causes to be searched, any closed place; or

(ii) vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for anything liable to confiscation under this Act; or

(iii) vexatiously and unnecessarily detains, searches, or arrests any person; or

(iv) in any other way vexatiously exceeds his lawful powers;

shall on conviction before a Magistrate be punished for each such offence with fine which may extend to five hundred rupees or with imprisonment for a term which may extend to six months, or with both.

69. *For vexatious delay.*—Any officer or person exercising powers under this Act who vexatiously and unnecessarily delays in forwarding any person arrested to the nearest Magistrate under section 57 or any article seized under this Act, shall on conviction before a Magistrate, be punished with fine which may extend to two hundred rupees.

70. *For abetment of escape of person arrested, etc.*—Any officer or person who—

(i) unlawfully releases or abets the escape of any person arrested under this Act, or

(ii) abets the commission of any offence against this Act; or

(iii) acts in any manner inconsistent with his duty for the purpose of enabling any person to do anything whereby any of the provisions of this Act, may be evaded or contravened, or the excise revenue may be defrauded

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and any officer of any other department referred to in section 42 who abets the commission of any offence against this Act, in any place,

shall on conviction before a Magistrate for every such offence, be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months or with both.

71. *For offences not otherwise provided for.*—Whoever is guilty of any wilful act or omission in contravention of any of the provisions of this Act, or of any rule or order made under this Act, and not otherwise provided for in this Act, shall, on conviction before a Magistrate, be punished for each such wilful act or omission with fine which may extend to two hundred rupees.

72. *Presumption as to commission of offence in certain cases.*—In prosecutions under section 61 it shall be presumed until contrary is proved, that the accused person has committed an offence under that section in respect of any liquor, or any stills, utensils, implements, or apparatus whatsoever for the manufacture of liquor other than toddy, or any such materials as are ordinarily used in the manufacture of liquor for the possession of which he is unable to account satisfactorily;

and the holder of a licence or permit under this Act shall be punishable, as well as the actual offender, for any offence committed by any person in his employ and acting on his behalf under section 61 or section 63 or section 64 or section 66 as if he had himself committed the same, unless he shall establish that all due and reasonable precautions were exercised by him to prevent the commission of such offence:

Provided that no person other than the actual offender shall be punished with imprisonment except in default of payment of fine.

73. *Enhanced punishment after previous conviction.*—If any person, after having been previously convicted of an offence punishable under section 61 or section 62 or section 65 subsequently commits and is convicted of an offence punishable under any of those sections, he shall be liable to twice the punishment which might be imposed on a first conviction under this Act:

Provided that nothing in this section shall prevent any offence which might otherwise have been tried summarily under Chapter XXII of the Code of Criminal Procedure, 1898 Central Act V of 1898), from being so tried.

74. *Liability of certain things to confiscation.*—Whenever an offence has been committed, which is punishable under this Act, the following things shall be liable to confiscation, namely:—

(1) any liquor, materials, stills, utensils, implements, apparatus in respect or by means of which such offence has been committed;

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(2) any liquor lawfully imported, exported, transported, manufactured, had in possession or sold or toddy lawfully drawn or tapped along with or in addition to, any liquor or toddy, liable to confiscation under this section;

(3) any receptacle, package or covering in which anything liable to confiscation under clause (1) or clause (2), is found, and the other contents, if any, of such receptacle or package or covering and any animal, cart, vessel or other conveyance used for carrying the same :

Provided that, if anything specified in clause (3) is not the property of the offender, it shall not be confiscated if the owner thereof had no reason to believe that such offence was being or was likely to be committed.

75. Confiscation how ordered.—(1) When the offender is convicted or when the person charged with an offence under this Act is acquitted, but the Magistrate decides that anything is liable to confiscation, such confiscation may be ordered by the Magistrate.

(2) Whenever confiscation is authorized by this Act, the Magistrate ordering it may give the owner of the thing liable to be confiscated an option to pay, in lieu of confiscation, such fine as the Magistrate thinks fit.

(3) When an offence under this Act has been committed but the offender is not known or cannot be found, or when anything, liable to confiscation under this Act and not in the possession of any person cannot be satisfactorily accounted for, the case shall be inquired into and determined by the commissioner, or by any other officer authorised by the Government in that behalf, who may order such confiscation :

Provided that no such order shall be made until the expiration of one month from the date of seizing the things intended to be confiscated or without hearing the persons, if any, claiming any right thereto, and evidence, if any, which they produce in support of their claims :

Provided further that if the thing in question is liable to speedy and natural decay or if the commissioner or any other officer authorized by the Government in that behalf is of opinion that the sale would be for the benefit of its owner, he may at any time direct it to be sold, and the provisions of this section shall, as nearly as may be practicable, apply to the net proceeds of such sale.

76. Power to compound offences.—(1) Any excise officer specially empowered in that behalf may accept from any person whose licence or permit is liable to be cancelled or suspended under clauses (a) and (b) of section 30 or who is reasonably suspected of having committed an offence under sections 61, 63, 64, 66 or 71 a sum of money not exceeding two thousand rupees in

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lieu of such cancellation or suspension or by way of compensation for the offence which may have been committed, as the case may be; and in all cases whatsoever in which any property has been seized as liable to confiscation under this Act may release the same on payment of the value thereof as estimated by such officer.

(2) On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the accused person, if in custody, shall be discharged and the property seized shall be released, and no further proceeding shall be taken against such person or property.

77. Offences by companies.—(1) If the person committing an offence under this Act is a company, every person, who, at the time the offence was committed was in-charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge, or that he exercised all due diligence to prevent the commission of the offence.

2) Notwithstanding anything contained in sub-section (1) where an offence under this Act, has been committed by a company, and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) “ company ” means a body corporate and includes a firm or other association of individuals; and

(b) “ director ” in relation to a firm means a partner in the firm.

78. Provisions of the Code of Criminal Procedure and Indian Penal Code applicable to offences committed under this Act.—The provisions of the Code of Criminal Procedure, 1898 (Central Act V of 1898) relating to execution so far as the same are applicable, and sections 67, 68 and 69 of the Indian Penal Code (Central Act XLV of 1860) shall apply to all offences committed and to all persons punished under the provisions of this Act.

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CHAPTER XI.

MISCELLANEOUS.

79. *Exemption of articles.*—The Government may by notification either wholly or partially, subject to such conditions as they deem fit exempt any liquor from all or any of the provisions of this Act, either generally or in any specified area, for any specified period or occasion or as regards any specified person or class of persons.

80. *Bar of action.*—(1) No action shall lie against the Government, or against any excise-officer, for damages in any civil court for any act *bona fide* done or ordered to be done in pursuance of this Act, or of any law for the time being in force relating to excise-revenue.

(2) All prosecutions of any excise-officer, and all actions which may be lawfully brought against the Government or against any excise-officer, in respect of anything done, or alleged to have been done, in pursuance of this Act, shall be instituted within six months from the date of the act complained of and not afterwards.

(3) In any action for damages, it shall be lawful for the court, if tender of sufficient amends shall have been made before the action was brought, in awarding the amount so tendered to refuse costs to the plaintiff and direct to pay the costs of the defendant.

81. *Validations.*—Anything done or any action taken or any order passed including—

(a) the determination of the number of licences of each description;

(b) the holding of auction sales and the confirmation thereof;

(c) the grant of licences;

(d) the marking of trees;

(e) the regulation of the number, size and description of stills, utensils, implements and apparatus to be used in any distillery;

(f) the fixation for any local area the minimum price below which liquor shall not be sold;

(g) the ware housing of liquor; and

(h) the inspection and supervision of stills, distilleries, private warehouses and breweries,

by any authority, officer or person before the commencement of this Act in anticipation of the revival or the re-enactment of the abkari law or incidental there to shall be deemed to have been validly done, taken or passed as if this Act and the appropriate rules had been in force at the relevant time.

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82. *Protection of action taken in good faith.*—(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which was in good faith done or intended to be done before the commencement of this Act in anticipation of the revival or the re-enactment of the abkari law.

(2) No suit or other legal proceeding shall lie against the Government or other authority for any damage caused or likely to be caused by anything which was in good faith done or intended to be done before the commencement of this Act in anticipation of the revival or the re-enactment of the abkari law.

83. *Rules and notifications under Tamil Nadu Act X of 1937 to continue.*—All rules made and notifications issued under the Tamil Nadu Prohibition Act, 1937 (Tamil Nadu Act X of 1937) and in force immediately before the date of the commencement of this Act shall be deemed to have been issued under the corresponding provisions of this Act in so far as they are not inconsistent with the provisions of this Act and shall continue in force accordingly unless and until superseded by anything done or any action taken under this Act.

84. *Repeal of Tamil Nadu Act I of 1886.*—(1) The Tamil Nadu Abkari Act, 1886 (Tamil Nadu Act I of 1886) (hereinafter referred to as the said Act), is hereby repealed.

(2) All rules made and notifications issued under the said Act as in force immediately before the 2nd October 1948 shall be deemed to have been issued under the corresponding provisions of the Act in so far as they are not inconsistent with the provisions of this Act and accordingly the said rules and notifications shall revive and come into force with effect from the date of the commencement of this Act unless and until superseded by anything done or any action taken under this Act.

85. *Repeal of Tamil Nadu Ordinance 8 of 1971.*—(1) The Tamil Nadu Abkari Ordinance, 1971 (Tamil Nadu Ordinance 8 of 1971) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the said Ordinance including any orders passed, notification issued, rules and appointments made shall in so far as they are not inconsistent with this Act be deemed to have been done or taken under this Act and shall continue in force accordingly, unless and until superseded by anything done or any action taken under this Act..